

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 42 months (three and a half years).

The first report 1002376 was tabled in Parliament on 10 February 2016. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1982
Ombudsman ID	1001289-O
Date of DIBP's reports	23 March 2016 and 21 September 2016
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002376), Mr X remained at Facility B.	
7 May 2016	Transferred to Facility C.
26 July 2016	Transferred to Facility B.

Recent visa applications/case progression

27 January 2016	Found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for consideration of the grant of a Bridging visa.
27 July 2016	Mr X's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair. The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. ² The Department of Immigration and Border Protection (DIBP) advised that it is considering the implications of this judgment and resolution of Mr X's immigration status.
2 August 2016	Lodged an application for a Bridging visa which was refused on 4 August 2016.
8 August 2016	Appealed to the Administrative Appeals Tribunal (AAT).
16 August 2016	AAT affirmed original decision.

¹ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

² *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive support and treatment for paranoid personality disorder. He engaged with mental health professionals on an intermittent basis and sometimes declined to attend his scheduled psychiatric appointments.

In May 2016 Mr X was involuntarily admitted to a psychiatric hospital after displaying odd behaviour and signs of psychosis. His treating psychiatrist at the hospital advised that he was suffering from symptoms of depression and post-traumatic stress disorder rather than psychosis, and that these symptoms were related to his experiences in detention. After being discharged from hospital Mr X was placed on Supportive Monitoring and Engagement observations after behaving inappropriately towards staff members.

IHMS further advised that Mr X complained of back and arm pain in May 2016. Investigations were conducted with no abnormalities identified and he was given pain relief medication to manage his symptoms.

6 – 10 December 2015	Mr X refused food and fluid.
6 – 23 May 2016	Admitted involuntarily to a psychiatric hospital.

Other matters

Mr X has made a number of complaints to the Ombudsman's office about the Ombudsman's previous report (1002376) because it did not recommend his release from detention.

Mr X has also made various complaints to the Ombudsman's office about faulty appliances in the detention centres, receiving inadequate medical treatment, his mobile phone being confiscated by Serco, dissatisfaction with his immigration pathway and a claim for compensation he has made to DIBP.

The Ombudsman's office declined to investigate these complaints because Mr X did not respond to requests for further information. He was advised to pursue his complaint with DIBP in the first instance.

22 April 2015	The Australian Human Rights Commission (AHRC) notified DIBP of a complaint made by Mr X. On 25 June 2015 DIBP provided its response to the AHRC.
4 December 2015	Mr X lodged a complaint with the Ombudsman's office because he had not yet been prosecuted for a crime he committed in the Australian Capital Territory (ACT) in 2013 and he wanted this matter to be conducted via videoconference. The complaint was investigated and Mr X was informed that it was open to him to approach the ACT Magistrate's Court to arrange a videoconference.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 26 May 2016 Mr X advised that he was dissatisfied with the Ombudsman's previous report (1002376) about the circumstances of his detention, because he felt it was biased against him, did not take into account his 'side of the story' and because the Ombudsman did not make any recommendations in the report.

Mr X requested that his next report include details about all of the complaints he has made to the Ombudsman's office.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. His case is affected by the HC judgment of 27 July 2016 and DIBP advised that it is considering the implications of this judgment.